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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

SAN JOSE DIVISION

GOOGLE, INC., a Delaware corporation, Plaintiff, v. AFFINITY ENGINES, INC., a Delaware corporation, Defendant.	CASE NO. C 05-0598 JW (HRL) **DECLARATION OF PETER J. O'ROURKE IN SUPPORT OF AFFINITY ENGINES, INC.'S MISCELLANEOUS ADMINISTRATIVE REQUEST TO FILE UNDER SEAL PURSUANT TO LOCAL RULES 7-10(b) AND 79-5:** **(1) UNREDACTED REPLY BRIEF IN SUPPORT OF AFFINITY ENGINES, INC.'S MOTION TO DISMISS AND/OR STAY PROCEEDINGS;** **(2) EXHIBITS B, C, D AND E TO THE DECLARATION OF GABRIEL M. RAMSEY IN SUPPORT OF AFFINITY ENGINES, INC.'S MOTION TO DISMISS AND/OR STAY PROCEEDINGS** **Date: May 9, 2005** **Time: 9:00 a.m.** **Judge: Honorable James Ware**

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I, Peter J. O'Rourke, the undersigned, declare as follows:

1. I am an associate at the firm of Orrick, Herrington & Sutcliffe, counsel of record for defendant Affinity Engines, Inc. ("AEI"). I make this declaration in support of AEI's Miscellaneous Administrative Request to File Under Seal Pursuant to Local Rules 7-10(b) and 79-5 the following documents: (1) Unredacted Reply Brief In Support Of Affinity Engines, Inc.'s Motion To Dismiss And/Or Stay Proceedings; and (2) Exhibits B, C, D and E to the Declaration of Gabriel M. Ramsey in Support of Reply Brief to Affinity Engines, Inc.'s Motion to Dismiss and/or Stay Proceedings.

2. I make this declaration of my own personal knowledge and, if called as a witness, I could and would testify competently to the truth of the matters set forth herein. I have personal knowledge of each fact stated herein, and am competent to testify to the same.

3. AEI's Reply Brief is being submitted for filing under seal because it quotes and references documents that both AEI and Google Inc. have designated "Highly Confidential – Attorneys' Eyes Only" under the terms of the protective order entered in the pending state court case.

4. AEI further seeks to file Exhibits B, C, D and E to the Declaration of Gabriel M. Ramsey under seal. Exhibit B to the Ramsey Declaration is a copy of an April 30, 2002 Retention Agreement designated "Highly Confidential – Attorneys' Eyes Only" under the terms of the state court Protective Order. Exhibits C to the declaration of Gabriel M. Ramsey is a copy of a September 11, 2002 assignment which AEI designated "Highly Confidential – Attorneys' Eyes Only" under the terms of the state court Protective Order. Exhibit D to the declaration of Gabriel M. Ramsey is a copy of a July 9, 2003 assignment which AEI designated "Highly Confidential – Attorneys' Eyes Only" under the terms of the state court Protective Order. Exhibits B, C and D to the Ramsey Declaration disclose AEI's confidential business information. Exhibit E to the declaration of Gabriel M. Ramsey is a copy of portions of Orkut Buyukkokten's employment agreement with federal plaintiff Google, Inc. Google has designated these documents as "Highly Confidential – Attorneys' Eyes Only" under the terms of the state court

Protective Order.

I declare the foregoing is true and correct under penalty of perjury under the laws of the United States of America.

Executed on April 25, 2005 in Menlo Park, California.

/s/ Peter J. O'Rourke

Peter J. O'Rourke